

## REMARKS

Claims 1-24, and 26-30 are pending in the present application. By this amendment, the abstract has been amended, as well as claims 24, 26, and 28-30. Claim 25 has been canceled. Claims 1-30 were rejected and Applicants respectfully request reconsideration of the rejections of the remaining ones of these claims in light of the following comments.

The abstract has been objected to based on wording and length. The amendments made to the abstract herein are believed to address and resolve these objections. In particular, the previous wording is believed to have been clear that learner interacts with a character, contrary to the reading proffered in the Office Action. The changes made to the abstract are believed to make this clearer.

Claim 26 was objected to as being of improper independent form. The amendments to claims 24 and 26 are believed to address and resolve this objection.

Claims 1-30 were rejected under 35 U.S.C. §101 as the claims are allegedly directed to non-statutory subject matter due to the assertion they represent abstract methodology and are, therefore, intangible. The Applicants respectfully traverse this rejection for the following reasons.

Applicants recognize that the practical application test requires that a useful, concrete and tangible result be accomplished. Such a result is indeed believed to be found in claims 1-30. Specifically, the claimed method of independent claim 1 generates a list of new possible statements and/or actions in response to the received statement or action chosen by the learner to make from the statements contained within the dynamic data model. Such a list of possible statements is indeed a useful, concrete and tangible result, not an abstraction, and, thus, this claim does not run afoul of the requirement of 35 U.S.C. §101. Additionally, method claim 27 features "providing a character response" in response to a statement or action chosen by the learner. Again, this is not an abstraction, but a concrete result. Thus, this claim is believed to contain statutory subject matter. Method claim 29 features "creating a data structure comprising a set of initial values..." which is indeed a concrete and tangible result. Moreover, the claimed systems of independent claims 28 and 30 include claimed tangible elements such as data storage areas, code segments, and data structures. These, again, are not abstractions, but concrete and

tangible things and these claims are indeed statutory subject matter. Accordingly, the Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 1-30 were rejected under 35 U.S.C. §112, first paragraph, due to their rejection under §101. The Applicants respectfully traverse this rejection since these claims are believed to be statutory, as argued above, and, thus, this rejection is believed to be improper.

Claims 8-16, and 30 were further rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the enablement requirement. Specifically, the Office Action alleges that the specification does not identify the term “effect force.” Applicants respectfully traverse this rejection and submit that the concept of “force” is discussed, for example, on page 19, lines 15-27. In this section of the specification, the concept of “force” is essentially described as the increasing of values that effect character trait changes, such as toward maximum or minimum value, analogous to how physical force effects change in physical matter. is an example of the enablement of this claim term in the original specification. Thus, the Applicants respectfully submit that one of ordinary skill in the art would understand and be enabled to make or use the claimed elements including the term “effect force.” Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 2-4, 21-23, 26, 29, and 30 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Applicants respectfully traverse this rejection based on the following reasons.

With respect to claims 2-4, the terms “state of mind”, “reflect a personality”, and “desire to buy” are alleged to be expansive in meaning and thus making the claim indefinite. The Applicants respectfully disagree and submit that these terms are definite when analyzed in light of the content of the specification (See M.P.E.P. §2173.02). In particular, page 17, lines 3-22 describe these terms such that a person of ordinary skill in the art could interpret the metes and bounds of the claims so as to understand how to avoid infringement. For example, the “desire to buy” is described in connection with a quantitative formula to determine this character trait. Accordingly, the Applicants request reconsideration and withdrawal of the rejection of these claims.

Claim 21 is rejected due to the assertion that the use of the term “more difficult” is a relative term and, thus, indefinite. The Applicants respectfully disagree and contend that terms

of degree do not automatically render a claim indefinite (See M.P.E.P. §2173.05(b)). In this case, one of ordinary skill in the art would understand what is being claimed, i.e., that dampening or resistance to change of character traits is imposed. Additionally, the specification provides guidance on what this term means on page 19, lines 20-28. Accordingly, the Applicants request reconsideration and withdrawal of the rejection of this claim.

Claims 22 and 23 are rejected due an apparent misunderstanding or misreading of the claim language and the teachings of the specification. The Applicants respectfully disagree and submit that this claim is indeed definite. In particular, the character can have associated with it both learner and competitor traits when a designer desires to introduce competition is the simulation (See pg. 20, lines 11-15 of the present application). As clearly claimed and described in the specification, the learner competes with the competitor. Thus, the learner and competitor (e.g., the computer) compete to increase their respective input that shapes the character (i.e., increase their respective trait values attached to the character). The Applicants submit that a close reading of the claim and specification reveal that this claim is indeed definite and request withdrawal of the rejection.

With respect to claims 26, 29 and 30, the amendments to these claim is believed to address and resolve the rejections of these claims under §112, second paragraph.

Additionally, the Office Action raised other rejections of claims 28-30 under §112, second paragraph. The Applicants respectfully traverse this rejection for the following reasons.

First, the Office Action asks with respect to claim 28 how system operates with first and second codes unattached. In response, the Applicants respectfully submit that the claim amendment to claim 28 addresses and resolves this rejection.

Claim 29 was rejected due to an apparent lack of understanding what the claim encompasses. The Applicants believe that this claim as originally claimed is definite. In particular, the method includes creating a data structure. However, further details of what particular data structure features that are created is included also in the claim. Nonetheless, the amendment to this claim is believed to more clearly set forth what is encompassed by the claim and request reconsideration and withdrawal of the rejection, accordingly.

Claim 30 was rejected in a similar vein to claim 29. Although the original claim is believed definite, the amendment to this claim is believed to more clearly set forth what is

encompassed by the claim and request reconsideration and withdrawal of the rejection, accordingly.

Claims 1-30 were rejected under 35 U.S.C. §102(e) as being anticipated by *Kleindienst et al.* (U.S. Patent No. 6,658,388). Applicants respectfully traverse this rejection for the following reasons.

The Office Action asserts that *Kleindienst et al.* discloses all of the elements of independent claim 1. The Applicants respectfully disagree. Claim 1 features, for example, “responding to the statement or action chosen by the learner by providing a character response by the character, wherein the character response provided is determined by the trait value of the at least one trait.” The Office Action asserted that column 1, lines 44-62 disclosed this claimed element. This is incorrect. This cited section merely refers to personality attributes that are selectable by a user for a conversational system. These are only settable attributes adapted according to a user preference (See col. 1, ll. 49-55). In contrast, claim 1 features an education simulation where traits are represented by trait values and responses of the character are then determined by the value of at least one trait. This is not merely a setting by a user, but rather a “value” (i.e., a number) that is used in the simulation to determine how the simulation will respond to inputs. The system of *Kleindienst et al.* will only perform as preselected by a user according to what personality, emotions and initiative they choose, and will continue to operate according to those settings. No values for traits are used or needed.

Additionally, *Kleindienst et al.* does not teach the claimed element of “generating new possible statements and/or actions for the learner contained within the data storage area.” The cited sections allegedly in support of showing this element in *Kleindienst et al.* actually only teach that method/system disclosed operates according to the program of instructions executed by the machine. No possible new statement and/or actions are actually generated. Rather, the emotion level is merely incremented or decremented.

In light of the above arguments, the Applicants respectfully submit that *Kleindienst et al.* does not teach or suggest all of the elements of claim 1.

With respect to dependent claims 2-24 and 26, which ultimately depend from claim 1, these claims are submitted to be allowable on their merits and at least for the reasons presented above with respect to claim 1.

With respect to independent claims 27-30, these claims are also believed allowable for at least the reasons presented above with respect to claim 1. Further with respect to claims 29 and 30, *Kleindienst et al.* does not teach or suggest the claimed "effect values for use within the calculation of trait value for the character trait in response to the selections of the learner." The sections cited in support of the allegation that the reference teaches this feature, in fact do not teach effect values or such values used for calculating trait values.

In light of the foregoing remarks, Applicants respectfully submits that the application is in condition for allowance and request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY

  
Patrick B. Law

Reg. No. 41,549

P.O. Box 1135

Chicago, Illinois 60690-1135

Phone: (312) 781-6801

Dated: July 23, 2004